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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1943

No. 265

MEDO PHOTO SUPPLY CORPORATION,
Petitioner,

vs.

NATIONAL LABOR RELATIONS BOARD.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

BRIEF FOR MEDO PHOTO SUPPLY CORPORATION.

WALTER N. SELIGSBERG,
WILLIAM E. FRIEDMAN,
Counsel for Petitioner.

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Opinions Below.

The majority and concurring opinion of the Circuit Court of Appeals for the Second Circuit (R. 304-310) are reported in 135 F. (2d) 279. The findings of fact, conclusions of law and order of the National Labor Relations Board (herein called the Board) (R. 275-295) are reported in 43 N. L. R. B. 989.

Jurisdiction.

The decree of the court below (R. 311-312) was entered on May 21, 1943. The petition for a writ of certiorari was filed August 16, 1943 and granted October 11, 1943 (R. 318).

The jurisdiction of this Court rests upon Section 240(a) of the Judicial Code, as amended by the Act of February 13, 1925, and upon Section 10 (e) of the National Labor Relations Act (herein called the Act).

Questions Presented.

1. Has an employer been guilty of an unfair labor practice under Sec. 8(1) of the Act viz: of interfering with, restraining or coercing employees in the exercise of their rights, where, after preliminary negotiations with a Union had been opened, the employees of their own accord and without suggestion from the employer stated that they were dissatisfied with the Union and requested the employer to deal with them directly, and the employer did so, bargained directly with the employees and made a labor agreement with them?

2. Has an employer been guilty of an unfair labor practice under Sec. 8(5) of the Act viz: of refusing to bargain collectively with the representatives of his employees, where, after preliminary negotiations with the Union had been opened, the employees of their own accord and without suggestion from the employer stated that they were dissatisfied with the Union and requested the employer to deal with them directly, and the employer did so, bargained directly with the employees and made a labor agreement with them?

3. Is an employer guilty of unfair labor practices where, after a group of his employees had designated a Union as their exclusive bargaining agent and bargaining was about to start, the employees of their own accord and without suggestion or interference from their employer repudiated the Union and requested the employer to bargain with them directly, and the employer did so, and entered into a labor agreement with the employees directly and

not through the medium of the previously designated and repudiated Union?

Statute Involved.

The pertinent provisions of the Act (Act of July 5, 1935, c. 372, 49 Stat. 449, 29 U. S. C. A., Sec. 151 et seq.) are set forth in the Appendix, *infra*, pp. 19 and 20.

Statement.

Medo Photo Supply Corporation (herein called Medo) is in the wholesale and retail photographic supply business, employing approximately seventy employees (R. 181, 197, 226, 243-244). Between May 21st and 23rd, 1941, eighteen of the twenty-six employees in Medo's shipping and receiving department signed membership application cards designating the American Federation of Photo Employees Union, Local 21314, affiliated with the American Federation of Labor (herein called the Union) as their collective bargaining representative (R. 11, 14, 228-229). These application cards were not binding for any specified period of time. On May 22nd, 1941, the Union wrote Medo requesting a meeting to negotiate a contract (R. 16, 230), and on the same day filed a petition with the Board for certification as the exclusive bargaining representative of the employees in Medo's shipping and receiving department as an appropriate unit (R. 53).

On June 4, 1941, a conference with respect to the Union's petition was held at the Board's Regional Office with representatives of the Union, Medo and the Board (R. 20). Medo questioned the appropriateness of the unit, maintaining that all its employees constituted a proper unit for collective bargaining and requested a hearing to determine the propriety of the unit claimed by the Union (R. 38). Notwithstanding the fact that the Union had petitioned for certification, it was reluctant to proceed with

such a hearing, and at its suggestion a meeting was thereupon arranged between the Union and Medo for the following day to discuss the matter further (R. 21-22).

On June 5th at the second conference three questions were discussed: the appropriateness of the unit, the Union's claim of majority representation and the Union's demands (R. 46, 160). The proposed contract was submitted by the Union, and it was agreed that if the Union could prove its majority representation, and if the unit claimed by the Union was appropriate, Medo would enter into a contract for collective bargaining (R. 65). The procedure was informal, as the Union's President and Medo's counsel had had previous dealings and arms-length procedure was waived by tacit consent (R. 160). A further conference was arranged for June 9th, to dispose of these questions (R. 26).

On Saturday, June 7th, Bruchbacher, one of Medo's employees who had signed an application card of the Union, discussed with his fellow employees the advisability of dropping the Union and of themselves approaching Medo for wage increases (R. 113). Bruchbacher testified that he did so of his own volition and at his mother's request, after a family discussion at home about the Union, in which his mother said: "There seems to be contentment there now, and it (the Union) would start a lot of trouble." • • •. "Why don't you see the other fellows and see what they think?" (R. 114). None of the eighteen employees who had signed the Union's application cards, evinced any real interest in the Union, and each said that he had signed the application card because he thought "most of the other fellows want it" (R. 113). When the employees found out that none of them really desired the Union for himself, they requested Bruchbacher to see Hoppin, the manager of Medo, and arrange a meeting (R. 113-114). These discussions were held without the knowledge of Medo (R. 114, 176, 180).

After working hours on the same day, twelve of the eighteen employees went to Hoppin and informed him that they, of their own volition, had decided that they no longer wished the Union to represent them, and that they were interested only in securing wage increases, as the working conditions were excellent and they were happy with their jobs (R. 79, 85, 95, 115). Hoppin was not informed of the reasons for their decision, because he refused to discuss the Union with them (R. 130, 177). What the employees had in mind when they went to Hoppin is shown by their testimony. Goshgarian, one of the eighteen employees, testified that when he together with his fellow employees went to see Hoppin, he did not want the Union (R. 78, 80). Bruchbacher also testified that he told Hoppin at the meeting "that the fellows did not want the Union; that all they wanted was the raises, and that we had come up to ask for the raises" (R. 130). Seminara, another of the employees, testified that he had heard stories about the Union, that he "didn't like so much", and that he "had a pretty definite idea what I was going to do before I went up there. It was not only the raise which decided it" (R. 108, 138).

On June 9th, Medo granted the request of its employees (R. 180), and while the wage increases did not in all respects meet the raises requested, the employees were satisfied (R. 179).

On the same afternoon the conference, which had been adjourned on June 5th, was held as scheduled in the offices of Medo's attorneys (R. 161). En route to the conference, the four employees, comprising the negotiating committee, informed the Union's president that they and their fellow employees no longer wished the Union to represent them (R. 124, 125). The president tried to induce the employees to remain in the Union, but they refused (R. 117). At the conference, the employees repeated their revocation of

the Union's authority to represent them, and stated that they and all the other employees in the shipping and receiving department had come to this decision of their own volition and without any interference, suggestion or instigation by Medo (R. 62, 89, 94, 118, 142). The Union's representatives thereupon threatened Medo with strikes and boycotts and left the meeting (R. 95, 118).

The Union never called a meeting of Medo's employees thereafter, and when the Union's president attempted to communicate with the employees individually, they refused to talk to him (R. 59). Thereupon, on about June 17, 1941, the Union filed charges against Medo of engaging in unfair labor practices (R. 218-219). The Board did not issue a complaint on these charges until ten months later, April 14, 1942 (R. 220-223).

During this intervening period a number of the employees left Medo's employ of their own accord to join the Army so that presently out of the eighteen employees only one is still in Medo's employ (R. 193, 194, 317). Aside from this one employee, who rejected the Union in June 1941, the Union has had no contact whatsoever with any of Medo's present employees (R. 59).

Upon the foregoing facts, the Board concluded that Medo had engaged in unfair labor practices within the meaning of Sections 8 (1) and (5) of the Act, and entered its order requiring Medo to cease and desist from refusing to bargain collectively with the Union as the exclusive representative of all the production employees of Medo, and from engaging in any like or related acts or conduct (R. 293-295).

On November 17, 1942 the Board filed its petition for enforcement in the court below (R. 313-316), to which Medo filed an answer (R. 316-318). On April 28, 1943 the court handed down its decision enforcing the Board's order (R. 304-310), and the decree was entered on May 21, 1943 (R.

311-312). Medo filed a petition for a writ of certiorari on August 16, 1943, which was granted on October 11, 1943 (R. 318).

Specifications of Errors to Be Urged.

The Circuit Court of Appeals erred:

1. In holding that Medo's negotiations of wage increases with its employees at their request, and after they of their own volition had decided that they no longer wished the Union to represent them and preferred to deal directly with Medo, constituted a violation of Sections 8 (1) and (5) of the Act.

2. In holding that the employees, having once selected a bargaining representative, though there had been no certification by the Board nor an election, might not then, by informal action repudiate that representative and bargain directly with Medo, their employer.

3. In holding that although there is no intimation of employer control in this case, the possible difficulty of proving such control in some other case justified the Board in finding Medo guilty of an unfair labor practice.

4. In holding that by bargaining directly with Medo, the employees surrendered the right of collective bargaining granted to them under the Act.

Summary of Argument.

1. Medo's negotiations of wage increases with its employees at their request, and after they of their own volition had decided that they no longer wished the Union to represent them and preferred to deal directly with Medo, are not violations of the Act. The Act is designed to afford employees the benefit of free expression in their industrial relations, and is incidentally an aid to unions.

Subjection to a union against the employees' will is as abhorrent to the expressed purpose of the Act as subjection to an employer. The Act does not require employees to join a union, nor does it deny them the privilege of voluntarily changing their minds about union representation. Were it otherwise, employees would be deprived of the freedom of choice guaranteed them by the Act itself.

2. Since the record conclusively establishes that the abandonment of the Union and the request for wage increases emanated solely from the employees without any suggestion, persuasion or intimidation by Medo, there is no justification for predicating a determination of guilt upon the conclusion that because of the difficulty of proving employer control in some other case, it should be implied in the instant case. In so holding, the majority of the court below erred.

3. The determination of the court below that the proposal of the employees constituted a surrender of their right of collective bargaining is based upon the misconception that only institutionalized forms of collective bargaining are contemplated by the Act. The employees' representatives for collective bargaining as defined by the Act, may be the individual employees themselves or any group of employees selected by them, as well as a labor organization. Moreover, the Board would not countenance any claim of relinquishment of the employees' right of collective bargaining as a result of their agreement with Medo.

ARGUMENT.

I.

The employees of Medo had the right to change their minds about the Union and deal directly with their employer, and Medo's acceptance of their proposal is not a violation of the Act in view of the undisputed evidence that Medo did not inspire or even suggest the proposal.

This case comes before this Court stripped of any intimation of employer control over the decision of the employees to bargain directly with their employer (R. 85, 86, 89, 114, 118, 139, 176-180, 290, 306, 308), or of any malicious or wilful action on the part of Medo (R. 209). Medo's offense,—if any it committed,—is to have received the employees, at their request, when they said they did not want or like the Union (R. 176, 177),—to have listened to their proposal that all they wished were wage increases as all other conditions of employment were satisfactory (R. 177, 178),—to have considered their demand for increases (R. 187),—and to have granted the same in part (R. 179, 180). No suggestion, no inspiration, nothing of that sort on the part of Medo has been found by the Board or the Circuit Court of Appeals (R. 289, 290, 306, 308). The Board's attorney in his summation at the close of the hearing before the Trial Examiner characterized Medo's conduct as follows:

> "I don't say that this company is a malicious company. I think this is a close question * * * I do not think that the violation is malicious and of the vicious type, which we have seen in some cases * * *." (R. 209.).

The gist of the Board's finding of an unfair labor practice is Medo's acceptance of its employees' voluntary proposal, and not any intimidation, control or interference

with its employees in their determination to deal directly with Medo rather than through the Union (R. 290). There is no proof or finding of any collusion between Medo and its employees (R. 308). The uncontradicted testimony of the employees as to the manner in which they arrived at their decision negates any inference that it was inspired by Medo (R. 85, 86, 89, 114-118, 139). After Bruchbacher, at the suggestion of his mother, opened the discussion with his fellow employees about the advisability of dropping the Union, they found that each had joined the Union in the belief that the others wished to do so (R. 113, 114). When they learned the contrary to be true, they accepted what the Union organizer had told them as to their rights, and broached their only grievance,—wages,—directly to Medo (R. 113). Yet all the cases thus far cited by the Board in support of its contention involve situations where the employer sought out the employees during bargaining negotiations and offered wage increases, vacations or other favors with the deliberate intent and purpose of undermining the Union. This is not the fact in the instant case, and consequently the rationale of those cases has no application.

This is a case of novel impression in the courts. There do not appear to be any cases in point on the main issue; to wit, whether the employees could of their own free will and accord abandon the Union and bargain directly with Medo, and whether Medo's acceptance of their offer constituted an unfair labor practice. The declared public policy of the Act is to diminish the causes of labor disputes by encouraging collective bargaining by employees through representatives of their own choosing, whether such representatives be the employees themselves or a labor organization (N. L. R. A. §§ 1, 2(4). This policy is defeated when the employees are forced to continue to negotiate through a union which they have voluntarily

rejected. The Act was not designed to foist a union upon employees against their will.

In *N. L. R. B.* v. *Sterling Electric Motors*, 109 Fed. (2d) 194 (C. C. A. 9), the court, in discussing the employees' right to reject the Union, pointed out the dilemma confronting the employees of small businesses in deciding whether or not to join a union, and concluded that they had three alternatives. After pointing out the advantages and disadvantages of two alternatives, which were to join an international union or a so-called "inside union", the court said (p. 202):

> "The third alternative for the small plant seems almost ignored in the titanic struggle for power of nation-wide internationals and associations, though the right to choose it is as worthy of the consideration of courts and legislatures as either of the other two. That is the right not to join or create or assist any labor organization at all, but to deal individually with the employer. What we have described above regarding the result of 'normal relations and innocent communications' between employers and employees properly may lead the latter to choose to remain unorganized. The Supreme Court construes a predecessive statute for the protection of collective bargaining as not prohibiting the employer's 'entering into such contract of employment as it chooses, with its individual employees', Virginian Ry. Co. v. System Federation No. 40, 300 U. S. 515, 557, 57 S. Ct. 592, 604, 81 L. Ed. 789, and puts a like construction upon the National Labor Relations Act, National Labor Relations Board v. Jones & Laughlin Steel Corp., 301 U. S. 1, 45, 57 S. Ct. 615, 81 L. Ed. 893, 108 A. L. R. 1352."
>
> . . . . . .
>
> "Each of these three rights is of equal value and in administering the National Labor Relations Act is entitled to the protection of the Board."

The fact that the employees signed application cards of the Union does not subject them to domination by the Union forever. These cards mention no definite period of time during which the employees are bound to continue the Union as their representative (R. 11, 14, 228, 229). There was no election or certification by the Board (R. 306). Consequently, the employees had the unquestioned right to cancel the Union's authority on June 7th, when they decided to act for themselves as stated by Judge Learned Hand in this case, "Although § 159(a) does indeed say that 'representatives, designated or selected * * * by the majority * * * shall be the exclusive representatives of all the employees * * * for the purposes of collective bargaining,' it would be strong doctrine to hold that in the case of a small group like this, the majority could not be its own representative, for they are certainly the eventual source of authority to act for the 'unit'" (R. 308). Medo did not in the language of § 8(5) of the Act, "refuse to bargain collectively with the representatives of his employees * * *". It went one better, and bargained collectively with the majority of its employees themselves (R. 176-179). Furthermore, there can be no valid claim that the majority of the employees of the unit were not "representatives" of the employees, since § 2(4) of the Act defines representatives as: "The term 'representatives' includes any individual or labor organization".

No representative has any personal vested right in his function as such; his right is purely derivative, subject to cancellation by the majority, who may thereafter resume their power as principal to negotiate directly with the employer. Here again Judge Hand is squarely in accord with Medo's position, in stating in his opinion:

> "Moreover, there can be no warrant for saying that the selection of a representative gives him personally any interest which the law need, or indeed should, recog-

> nize; his authority is purely derivative and the majority may cancel it as soon as they choose, and resume their power as principal;" (R. 308)

and further

> • • • "therefore I am not prepared to accept the board's reasoning, as I understand it, that it was an 'unfair labor practice' for the respondent to bargain directly with the majority after it had appointed a representative," (R. 310)

The Board has consistently recognized the right of employees to change their representatives, even in cases where an existing contract with the representatives has not yet expired (New England Transp. Co., 1 N. L. R. B. 130; Swayne & Hoyt Ltd., 2 N. L. R. B. 284).

The Board's finding of illegal conduct in Medo's acceptance of its employees' conditional offer to repudiate the Union if their demand for wage increases was granted, is a derogation of the freedom of choice of representation granted to employees under the Act. Restriction upon their right to revoke authority once granted by them is surely as unwarranted a restriction upon their right to designate representatives of their own choosing, as is restriction upon their liberty of designation in the first instance. If the purpose of the Act is to be effectuated, freedom in the one respect is to be safeguarded to the same extent as in the other. No formal action or application to the Board was necessary to effectuate the revocation, especially since there had not been any certification by the Board or an election. The employees had the right to impose the condition, and so long as Medo did not instigate or make the advances, it had the right to accede thereto. Certainly the Act is not designed to interfere with the employees' initiation of proposals for adjustment of industrial relations.

A somewhat similar claim of illegal conduct on the part of an employer was made by the Board and rejected by the

Circuit Court of Appeals in *N. L. R. B.* v. *Bradford Machine Tool Co.*, 138 Fed. 2d 246, 249 (C. C. A. 6). There a majority of employees designated a union as their bargaining representative on condition that the union obtain a wage increase within ten days. Upon the complaint of a rival union, the Board decided that the action of the employer in granting the wage increase and signing a contract with the designated union constituted an unfair labor practice, although there was no showing of any collusion between the employer and the designated union or of any discriminatory practice indulged in by the employer against the rival union. The Circuit Court of Appeals overruled the Board, holding that the employees had the right to impose the condition to their authorization to the Union and that "it would have been improper for respondent (the employer) to refuse to enter into a written agreement" with the designated union.

Similarly in the instant case, Medo acted properly in accepting its employees' offer. To reject it, would have been a violation of the spirit of the Act, in that Medo would then have interfered with and dictated to its employees in the free choice of their representative.

The purpose of the Act is to benefit and protect employees in their relations with employers, and to promote industrial peace and harmony, and not to saddle a union upon employees against their will. Ever since the employees consummated their negotiations with Medo, over two and one-half years ago, the parties have worked together harmoniously and without friction. To disturb this satisfactory relationship by now injecting the Union against the express will of the employees would only create discord and defeat the very purpose of the Act.

II.

There is no justification for the assumption by the majority of the court below that Medo played a part in inducing the offer of its employees.

The record and decision of the Board leave no room for any doubt that the employees acted of their own accord and volition and without any interference or control by Medo (R. 85, 86, 89, 113-118, 139, 176-179, 290). The employees' decision to deal directly with Medo represented their untrammelled wish, tainted by no unfair practices of Medo (R. 113-118). There is no secret as to how this decision was reached. After discussing unionization with his parents Bruchbacher followed their advice and took the question up with his mates, and they found that all had signed the Union's application cards because each thought the others desired the Union, and that none of them had any real interest in the Union (R. 113, 114). Yet the majority of the court below held that proof of employer control is so difficult to adduce, that, although the contrary is conclusively shown in this case, it may be assumed and a determination of guilt predicated thereon (R. 307). There is no rule of law that warrants an assumption of a fact on which to base a decision, where the contrary has been proved and found. As stated in *N. L. R. B.* v. *A. S. Abell Co.*, 97 Fed. (2d) 951, at 957 (C. C. A. 4), "There is, however, no justification for the position that spontaneous action on the part of the men is so improbable as to warrant the inference that it was inspired by the management."

That this assumption of a non-existent fact influenced the decision of the majority of the court below is evident from an analysis of their opinion. They did not decide that employees, who have selected a bargaining representative, may not then, by informal action, repudiate that

representative and bargain directly with the employer (R. 306). Nor did they decide that it is invariably an unfair labor practice for an employer to accept an offer made by the employees to repudiate a representative theretofore selected on condition that the employer will increase wages (R. 306). Yet, the majority found Medo guilty of an unfair labor practice for accepting just such an offer (R. 307). Why the majority saw fit to so hold here is not pointed out. The conclusion is irresistible that the decision of the majority is based upon their unwarranted reading into the record of a finding of employer control, in the face of the undisputed evidence and the finding of the Board to the contrary. Judge Hand properly refused to follow the majority on this point (R. 308), and it is respectfully submitted that a finding contrary to the Board's finding, and contrary to the proof, is not a proper basis for a judicial decision. The fact that in some other case, not before this Court, on other facts, the Board might have found otherwise, is no warrant for a decision condemning Medo for acts which it did not perform.

Furthermore, predicating the decision upon this assumption of a non-existent fact completely disregards established legal principles governing the court review of Board orders:

1. It is axiomatic that the burden of proving the charges against Medo is upon the Board,[1] and that all findings must be based upon substantial evidence.[2]

2. It is equally true that there must be an impartial

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[1] *Texarkana Bus Co. Inc.* v. *N. L. R. B.*, 119 Fed. (2d) 480 (C. C. A. 8); *N. L. R. B.* v. *Illinois Tool Works*, 119 Fed. (2d) 356 (C. C. A. 7); *Magnolia Petroleum Co.* v. *N. L. R. B.*, 112 Fed. (2d) 545 (C. C. A. 5); *N. L. R. B.* v. *A. S. Abell Co*, 97 Fed. (2d) 951 (C. C. A. 4).

[2] *N. L. R. B.* v. *Columbian Enameling & Stamping Co.*, 306 U. S. 292; *Consolidated Edison Co.* v. *N. L. R. B.*, 305 U. S. 197.

evaluation of the evidence, and in such process undisputed evidence is not to be disregarded.[3]

The majority's disregard of the uncontradicted proof that Medo had no hand directly or indirectly in the proposal of its employees and of the Board's finding to this effect, warrants a reversal of the decree.

III.

The employees by dealing directly with Medo did not surrender their right of collective bargaining.

The gist of the concurring opinion is that by negotiating with Medo the employees inferentially agreed that upon acceptance of their offer they would abandon collective bargaining, even though for an unspecified time (R. 310). This assumption is based upon the misconception that only institutionalized forms of collective bargaining are contemplated by the Act. This is not so, as the Act unambiguously defines representatives as "the term 'representatives' includes any individual or labor organization" (N. L. R. A., § 2(4)). The employees in this small unit—twenty-six in all—having effectively negotiated once with Medo, there was no promise not to do so again in the future, nor was there any evidence that Medo would or could have refused resumption of negotiations of this character.

Moreover, even if the right to collective bargaining could be said to have been surrendered in the sense that, to use the language of Judge Hand, "it would have been a breach of faith with the employer for the majority to turn about the next day and organize, even an unaffiliated union" (R. 310), what consequences could such a breach of faith

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[3] *N. L. R. B.* v. *Sands Mfg. Co.*, 96 Fed. (2d) 721, 727 (C. C. A. 6) aff'd 306 U. S. 332; *P. & O. S. S. Co.* v. *N. L. R. B.*, 98 Fed. (2d) 411, 415 (C. C. A. 5) cert. den. 305 U. S. 653.

possibly have that would be deserving of, or receive, the recognition of the Board? In this, it is respectfully submitted that Judge Hand was in error.

Conclusion.

It is respectfully submitted that the decree of the court below should be reversed, the Board's order set aside and its complaint dismissed.

Respectfully submitted,

WALTER N. SELIGSBERG,
WILLIAM E. FRIEDMAN,
Attorneys for Medo Photo Supply Corporation.

December 1948.

APPENDIX.

The pertinent provisions of the National Labor Relations Act (Act of July 5, 1935 c. 372, 49 Stat. 499, 29 U. S. C. A. Sec. 151, et seq.) are as follows:

"Sec. 1. The denial by employers of the right of employees to organize and the refusal by employers to accept the procedure of collective bargaining lead to strikes and other forms of industrial strife and unrest, which have the intent or the necessary effect of burdening or obstructing commerce by (a) impairing the efficiency, safety, or operation of the instrumentalities of commerce; (b) occurring in the current of commerce; (c) materially affecting, restraining, or controlling the flow of raw materials or manufactured or processed goods from or into the channels of commerce, or the prices of such materials or goods in commerce; (or (d) causing dimunition of employment and wages in such volume as substantially to impair or disrupt the market for goods flowing from or into the channels of commerce:

The inequality of bargaining power between employees who do not possess full freedom of association or actual liberty of contact, and employers who are organized in the corporate or other forms of ownership association substantially burdens and affects the flow of commerce, and tends to aggravate recurrent business repressions, by depressing wage rates and the purchasing power of wage earners in industry and by preventing the stabilization of competitive wage rates and working conditions within and between industries.

Experience has proved that protection by law of the right to employees to organize and bargain collectively safeguards commerce from injury, impairment, or interruption, and promotes the flow of commerce by removing certain recognized sources of industrial strife and unrest, by encouraging practices fundamental to the friendly adjustment of industrial disputes arising out of differences as to wages, hours, or other working

conditions, and by restoring equality of bargaining power between employers and employees.

It is hereby declared to be the policy of the United States to eliminate the causes of certain substantial obstructions to the free flow of commerce and to mitigate and eliminate these obstructions when they have occurred by encouraging the practice and procedure of collective bargaining and by protecting the exercise by workers of full freedom of association, self-organization, and designation of representatives of their own choosing, or the purpose of negotiating the terms and conditions of their employment or other mutual aid or protection."

"Sec. 2. When used in this Act—

(4) The term 'representatives' includes any individual or labor organization."

"Sec. 8. It shall be an unfair labor practice for an employer—

(1) To interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 7.

(5) To refuse to bargain collectively with the representatives of his employees, subject to the provisions of section 9 (a)."